IN THE UPPER TRIBUNAL
IMMIGRATION AND ASYLUM CHAMBER

Case No: UI- 2021-001774
First-tier Tribunal No: RP/00046/2020

THE IMMIGRATION ACTS

Decision & Reasons Issued:
On the 19 March 2023

Before

UPPER TRIBUNAL JUDGE NORTON-TAYLOR
DEPUTY UPPER TRIBUNAL JUDGE WELSH

Between

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Appellant

and

MU
(ANONYMITY DIRECTION MADE)

Respondent

Representation:
For the Appellant: Ms Bustani of Counsel, instructed on a Direct Access basis
For the Respondent: Ms Everett, Senior Home Office Presenting Officer

Heard at Field House on 21 February 2023

Order Regarding Anonymity

Pursuant to Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008, we make an anonymity order, given that family members of the Appellant still benefit from recognition as refugees. Unless the Upper Tribunal or a Court directs otherwise, no report of these proceedings or any form of publication thereof shall directly or indirectly identify the Appellant or members of his family. This direction applies to, amongst others, all parties. Any failure to comply with this direction could give rise to contempt of court proceedings.

DECISION AND REASONS

Introduction

1. This is an appeal against a decision of First-tier Tribunal Judge Beach ("the Judge"), promulgated on 26 August 2021. By that decision, the Judge allowed MU's appeal against the decision of the Secretary of State for the Home Department to refuse his claim under Article 8 of the European Convention on Human Rights ("ECHR") but dismissed the protection element of his appeal (there is no cross-appeal by MU).

2. His claim arose out of the making of a deportation order following his conviction, on 19 April 2017, at the Harrow Crown Court, for two offences - wounding and assault occasioning actual bodily harm - for which he was sentenced to concurrent terms of 2 ½ years' imprisonment.

3. We refer to the parties as they were in the First-tier Tribunal, with MU as the Appellant and the Secretary of State as the Respondent.

4. At the conclusion of the hearing before us, we reserved our decision.

Factual background

5. The Appellant is a national of Turkey, born in 1978. He left Turkey at the age of eleven, joining his father, a refugee, in the United Kingdom ("UK") on 1 July 1990. He was recognised as a refugee and then, on 8 June 1994, granted Indefinite Leave to Remain, in line with his parents and siblings.

6. In a decision, dated 16 July 2020, the Respondent made a decision to revoke his refugee status, certified the Appellant's case under section 72 of the Nationality, Immigration and Asylum Act 2002 ("the 2002 Act") and refused his human rights claim.

7. The Appellant appealed the Respondent's decision pursuant to section 82 of the 2002 Act.

The decision of the First-tier Tribunal

8. The Judge found that the Appellant had rebutted the presumption under section 72. She went on to consider the question of revocation, finding that the Respondent had demonstrated that the circumstances in connection with which the Appellant was granted refugee status had ceased to exist. Relying on the same findings of fact, she concluded that the Appellant had not demonstrated that he faces a real risk of persecution/serious harm on return or that he will suffer a breach of his protected rights under Article 3 of the ECHR.

9. Insofar as is relevant to the issues before us, the Respondent accepted that the Appellant had lived lawfully in the UK for most of his life, leaving the matters in issue as being (i) the question of his social and cultural integration in the UK and (ii) whether there will be very significant obstacles to the Appellant's integration on return to Turkey. The Judge allowed the appeal because she found the Appellant had demonstrated that he met the requirements of section 117C(4) of the 2002 Act and it followed, applying section 117C(3), that the public interest did not require the Appellant's deportation.

The grounds of appeal and grant of permission

10. The Respondent relies upon the following grounds:

    (1) Ground 1 - failure to resolve a conflict of fact in relation to the evidence relevant to the section 72 certificate.

    (2) Ground 2 – when assessing the question of the Appellant's social and cultural integration into the UK, the Judge (i) made findings that are

unsupported by the evidence and (ii) failed to take into account a relevant consideration, namely the full extent of the Appellant's criminality.

(3) Ground 3 - failure to apply the correct legal test/inadequacy of reasoning when assessing the question of very significant obstacles to integration.

(4) Ground 4 - inadequacy of reasoning when considering the question of very compelling circumstances.

11. Permission to appeal was granted by First-tier Tribunal Judge Adio. The grounds upon which permission was granted were not restricted.

12. On 13 June 2022, the Appellant filed a Rule 24 response, pleading that the Judge had taken into account all relevant evidence, carried out a detailed assessment of the Appellant's personal circumstances and provided cogent reasons for her conclusions.

The Upper Tribunal hearing

13. Ms Everett relied on the grounds of appeal and skeleton argument (drafted by a colleague); Ms Bustani relied upon the Rule 24 response. Both advocates made supplementary oral submissions. During the course of this decision, we address the points they made.

Discussion and conclusions

Ground 1

14. Ms Everett accepted that, given the Judge dismissed the Appellant's protection claim and in the absence of a cross-appeal, any error in relation to her assessment of the section 72 certificate is not capable of being material.

Ground 2

15. The Respondent's skeleton argument did no more than refer back to the grounds of appeal and Ms Everett made no supplementary oral submissions. Ms Bustani submitted that the factors taken into account by the Judge were all relevant and the conclusion reached was rational.

16. We are only permitted to interfere with the Judge's decision regarding the Appellant's cultural and social integration in the UK if, in concluding that the Appellant was socially and culturally integrated, the Judge made a mistake on a point of law.

17. At [104] the Judge identified those factors in the Appellant's favour: the length of time he has lived in the UK and his age on arrival; that he had been educated in the UK; he has worked in the UK; and the substantial witness evidence from friends and family demonstrating his extensive social connections. It is not submitted that any of these factors is an irrelevant consideration. The Judge also took into account those factors that point away from integration: the nature of his most recent conviction; that the most recent conviction had led to a term of imprisonment; and, contrary to the assertion in the grounds of appeal, his wider history of offending, though correctly noting that those other convictions were minor in nature. In reaching her conclusion, the Judge balanced all these factors. The conclusion reached was within the range of rational conclusions open to the Judge and was supported by adequate reasoning.

Ground 3

18. Ms Everett accepted that the Judge directed herself correctly in accordance with the authority of SSHD v Kamara [2016] EWCA Civ 183 but submitted that, in reaching her conclusion, the Judge gave inadequate reasons and focused

improperly on the lack of family ties in Turkey rather than carrying out a broad evaluative assessment of all relevant factors. Ms Bustani submitted that the Judge did in fact carry out a broad assessment of all relevant factors and the conclusion she reached was open to her.

19. We remind ourselves of the need for appropriate restraint before interfering with a decision of the First-tier Tribunal, having regard to numerous exhortations to this effect emanating from the Court of Appeal in recent years: see, for example, Lowe [2021] EWCA Civ 62, at paragraphs 29-31 and AA (Nigeria) [2020] EWCA Civ 1296; [2020] 4 WLR 145, at paragraph 41. We also remind ourselves that the Judge's decision must be read sensibly and holistically and that we are neither requiring every aspect of the evidence to have been addressed, nor that there be reasons for reasons.

20. At [115-116] the Judge took into account wide-ranging factors, all of which are relevant to the assessment of the Appellant's ability to integrate on return: the age at which he left Turkey; his ability to speak Turkish; the circumstances in which he and his family left Turkey, when considered together with the medical evidence, led the Judge to conclude that the anxiety and depression from which the Appellant suffers would be exacerbated on return; he has no support network in Turkey; the financial circumstances of the Appellant's UK-based family mean that they will be unlikely to be able to support him in the long-term; he will face impediments to obtaining accommodation and employment by reason of his lengthy absence from Turkey and the discrimination he is likely to suffer as an Alevi Kurd.

21. The Judge correctly directed herself to the relevant law and her assessment of the Appellant's ability to integrate into Turkish society took cumulative account of a range of different factors. Her conclusion that there are very significant obstacles to integration was reached on a holistic assessment of the evidence. The decision discloses no material error on a point of law in her approach to section 117C(4)(c).

Ground 4

22. Ms Everett accepted that, having found that the Appellant met the requirements of section 117C(4)(c), that was determinative of the proportionality assessment and there was therefore no need for the Judge to consider the question of very compelling circumstances. Her failure to do so cannot therefore be an error of law.

Notice of Decision

23. The decision of the First-tier Tribunal did not involve the making of a material error on a point of law and the decision to allow the appeal stands.

C E Welsh

Deputy Judge of the Upper Tribunal
Immigration and Asylum Chamber

13 March 2023